

THE UNIVERSITY OF MICHIGAN
LAW SCHOOL
CLINICAL LAW PROGRAMS

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June 19, 2009

Testimony re: HB 4098 & 4101

Dear House Judiciary Committee members:

My name is Kimberly Thomas and I am an assistant clinical professor at the University of Michigan Law School. Mostly, I teach second and third-year law students in live-client law school clinics. In one of those clinics, the Michigan Clinical Law Program, law students represent indigent persons accused of criminal misdemeanors, mostly in Washtenaw County.

The crippling effects of the Driver Responsibility Fees are keenly felt by the clients that my students and I represent.

The typical client looks something like this: a person at a low-wage job is struggling to make ends meet for herself and her family. She gets a few driving tickets. She cannot afford to pay them or gets laid off, and her license is suspended. Because she needs to drive to get to work, take care of her family or other obligations, she continues to drive. She is then arrested and charged with the crime of driving on a suspended license. Having no defense, she pleads guilty. She owes the court fines and costs, not to mention the money to pay off the overdue tickets. Then the Driver Responsibility Fees kick in. She then owes the Secretary of State \$1000 over two years. The snowball effect of these fines is overwhelming.

Driver Responsibility Fees are not imposed in a vacuum. Before the fees are even levied, persons charged with eligible offenses immediately owe the state courts hundreds, if not thousands, of dollars, even for non-alcohol related offenses. By the time the Secretary of State letter arrives, those without jobs or with low-paying jobs have nothing left. The inevitable consequence is the failure to pay and a driver's license suspension.

These clients will never catch up. The Driver Responsibility Fees prohibit successful re-integration into the law abiding community for those who can least afford it and, in many cases, those who are among the least culpable of all criminal defendants.

Michigan's driver responsibility fees are onerous, especially for non-alcohol related offenses, even by comparison with other states that impose these fees. For example, in New Jersey, which was one of the first state to adopt this idea, someone convicted of driving with a suspended license faces a total fee of \$250, as compared to

\$1000 in Michigan. Other states, such as Texas, are also re-examining their driver responsibility program, in light of evidence that the majority of residents were not paying the fees and the burden feel disproportionately on those who could least afford it. See Terrence Stutz, *Texas Senate votes to ease surcharges on DWI, other driving violations*, The Dallas Morning News, April 18, 2009 (noting that 1.1 million of 1.6 million charged have not paid).

The other people affected by these fees are my law students. How? It is the lesson about the criminal justice system that they take away from their representation of poor people, caught up in a whirlwind of court fines, tickets, and Driver Responsibility Fees. After their surprise that many of these apparently administrative violations, such as driving with a suspended license, are criminal, they go on to ask me things like: "Isn't this like debtor's prison?" and "How is this person supposed to get back on their feet with laws like this?" The Driver Responsibility Fees teach my students a bleak lesson about the fairness of the criminal justice system and the collateral consequences that attach to even the most minor of criminal convictions.

The amendments to the Driver Responsibility Fees, which improved the payment plan option among other things, were a step in the right direction, but did not go far enough. The fees should be repealed. Further, an amnesty provision that takes into account the inability of low-income people to make large lump-sum payments should be implemented.

Thank you for your time.

Sincerely,

A handwritten signature in black ink, appearing to read "Kimberly A. Thomas". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Kimberly A. Thomas
Assistant Clinical Professor